

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

WASHINGTON HARBOUR, SUITE 400

3050 K STREET, NW

WASHINGTON, DC 20007

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

JOHN J. HEITMANN

DIRECT LINE: (202) 342-8544

EMAIL: jheitmann@kelleydrye.com

NEW YORK, NY
LOS ANGELES, CA
HOUSTON, TX
AUSTIN, TX
CHICAGO, IL
PARSIPPANY, NJ
STAMFORD, CT
BRUSSELS, BELGIUM

AFFILIATE OFFICE
MUMBAI, INDIA

February 15, 2017

By ECFS

Marlene Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: **Boomerang Wireless, LLC d/ba/ enTouch Wireless Lifeline
Broadband Provider Designation; Notice of Oral *Ex Parte*
Presentation; WC Dockets 09-197; 11-42**

Dear Ms. Dortch:

Dennis Henderson and Kim Lehrman of Boomerang Wireless, LLC d/b/a enTouch Wireless (Boomerang or the Company) and John Heitmann and Josh Guyan of Kelley Drye & Warren LLP had separate meetings with Claude Aiken, Legal Counsel to Commissioner Clyburn, and Brendan Carr, Acting General Counsel, and Sarah Citrin (via telephone) of the Office of General Counsel on February 13, 2017; and Jay Schwarz, Acting Wireline Advisor to Chairman Pai and Kristen Harris, Intern, and Ryan Palmer and Jodie Griffin of the Wireline Competition Bureau (Bureau) Telecommunications Access Policy Division on February 14, 2017, to address next steps regarding the Bureau's Order reversing Boomerang's Lifeline Broadband Provider (LBP) designation and requiring the Company's to de-enroll its 17, 538 Lifeline subscribers served pursuant to its LBP designation within 60 days.¹

¹ See *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, Order on Reconsideration, DA 17-128 (rel. Feb. 3, 2017) (Revocation Order).

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We explained that Boomerang is an established provider of wireless telecommunications service that has been providing Lifeline services since 2010. The Company has always pursued a national footprint by applying to states for eligible telecommunications carrier (ETC) designations and received approval of its compliance plan by the Federal Communications Commission (Commission) in 2012 so that it could do so.² As shown in the enclosed exhibit, Boomerang is designated as an ETC in 31 states and has ETC petitions pending in 17 states, including a federal ETC petition with the Commission for 11 states that do not designate wireless ETCs.³ During its six years operating as a Lifeline provider, Boomerang has never been subject to any enforcement action. Although the Company did not advocate for the LBP designation process, Boomerang pursued designation to operate as an LBP because the Company viewed the process as an efficient and expeditious manner to obtain ETC designations in several states, including the states that do not designate wireless ETCs (the federal jurisdiction states). Boomerang filed its LBP petition on October 5, 2016 and its petition was granted on December 1, 2016 in the first LBP designation order.⁴ However, Boomerang continued to pursue its ETC petitions that were pending in the states as well as its federal ETC petition.

In 2016, Boomerang pursued two transactions by which it acquired Lifeline subscribers from two other ETCs operating in multiple states. One of those transactions was to acquire Lifeline subscribers from Total Call Mobile due to that company's ongoing investigations and impending exit from the Lifeline business so that eligible subscribers would continue to receive Lifeline services. Boomerang worked hand-in-hand with Bureau staff to develop a subscriber vetting process and invested substantial capital, time and other resources to that process to confirm the eligibility of every subscriber that was transferred to Boomerang. Pursuant to both transactions, some subscribers were transferred immediately to Boomerang in states where the Company held a state ETC designation, but some subscribers were held because Boomerang did

² See *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q LINK Wireless and TAG Mobile*, WC Docket Nos. 09-197, 11-42, Public Notice, DA 12-1286 (rel. Aug. 8, 2012).

³ Through its petition pending before the Commission, Boomerang is seeking ETC designation in the states of Alabama, Connecticut, Delaware, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, and Virginia, and the District of Columbia. See *Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, and Virginia*, WC Docket No. 09-197 (filed Aug. 25, 2015) (ETC Petition). The petition was originally filed on December 29, 2010.

⁴ See *Telecommunications Carriers Eligible for Universal Service Support, Petitions for Designation as a Lifeline Broadband Provider*, WC Docket Nos. 09-197, 11-42, Order, DA 16-1325 (WCB rel. Dec. 1, 2016) (LBP Designation Order).

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not yet have an ETC designation in some states. Those subscribers were then transferred to the Company once its LBP petition was granted. Therefore, Boomerang had subscribers in some states that it served pursuant to its LBP designation almost immediately after it received the designation on December 1, 2016.

Boomerang currently serves 17,538 Lifeline subscribers pursuant to its LBP designation. In the last few months, those subscribers have been notified that they were being transferred from another ETC to Boomerang, received a different (albeit improved) Lifeline service offering and completed annual recertification (if necessary). The Revocation Order would have Boomerang notify those customers by March 5, 2017 that they have 30 days to find another Lifeline service provider or be de-enrolled. These customers do not have \$9.25 each month to pay for their wireless service and anyway, Boomerang cannot build a method for them to pay each month in 30 days. Further, there are fewer mobile enrollment events conducted during the winter months, especially in states like South Dakota and Massachusetts where many of these subscribers reside. Therefore, the vast majority of these more than 17,000 subscribers are unlikely to find an alternative Lifeline provider in 30 days.

For these reasons, Boomerang asks that the Commission delay the revocation of Boomerang's LBP designation until the states can act on Boomerang's pending ETC petitions (and the Commission can act on the federal ETC petition). Specifically, **the Bureau should reconsider the Revocation Order to delay the effective date of the revocation of Boomerang's LBP designation until either Boomerang's ETC designation is granted by the state (or the Commission) or 60 days after Boomerang's ETC designation is denied by the state (or the Commission), which process it should expect to complete within six months.** This action would more effectively minimize disruption to Boomerang's impacted Lifeline subscribers and would return the ETC designation authority to the states that exercise such authority for wireless carriers like Boomerang.

This process should include **Commission grant of Boomerang's federal ETC petition that has been pending for more than six years.** Granting Boomerang this authority in 11 states that do not designate wireless ETCs is clearly within the Commission's authority and would allow Boomerang to fill out a near national footprint, including an estimated 37 percent of the eligible Lifeline subscribers in the United States who reside in the federal jurisdiction states. In reliance on having a nationwide footprint by virtue of its LBP designation, Boomerang had negotiated several distribution and other partnership agreements to identify and enroll eligible applicants, and allow subscribers to purchase additional voice, text or data services. These deals were premised on a nationwide footprint that would allow Boomerang to compete with the only three providers that have received designation in the federal jurisdiction states. Reconsideration of Boomerang's LBP designation puts those deals in jeopardy, but grant of the Company's

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federal ETC petition would resurrect them. To expedite consideration of Boomerang's federal ETC petition, Boomerang hereby modifies its petition to exclude all Tribal lands within the eleven states and the Company will file a revised service territory exhibit to reflect that change.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



John J. Heitmann
Joshua Guyan
Kelley Drye & Warren LLP
3050 K Street, NW, Suite 400
Washington, DC 20007
(202) 342-8400

*Counsel to Boomerang Wireless, LLC d/b/a
enTouch Wireless*

cc: Claude Aiken
Brendan Carr
Sarah Citrin
Jodie Griffin
Ryan Palmer
Jay Schwarz

Enclosure

EXHIBIT

[illegible]